

HOUSE BILL No. 1435

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-32.2-4-13.5; IC 7.1-3; IC 7.1-5.

Synopsis: Alcoholic beverage prizes. Allows a nonprofit corporation that is a qualified organization under the charity gaming law (qualified organization) to give bottles or cases of alcoholic beverages as prizes in a charity gaming event without obtaining an alcoholic beverage permit. Allows a qualified organization conducting a charity auction to auction alcoholic beverages in sealed bottles or cases that are purchased by or donated to the qualified organization. Prohibits alcoholic beverages that are auctioned or given as prizes from being consumed on the premises.

Effective: July 1, 2015.

Olthoff, Slager, Brown C

January 14, 2015, read first time and referred to Committee on Public Policy.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1435

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-32.2-4-13.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: **Sec. 13.5. A qualified organization**
4 **that gives an alcoholic beverage as a prize in an allowable event**
5 **shall comply with IC 7.1-3-6.1.**

6 SECTION 2. IC 7.1-3-3-5, AS AMENDED BY P.L.94-2008,
7 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2015]: Sec. 5. (a) The holder of a beer wholesaler's permit
9 may purchase and import from the primary source of supply, possess,
10 and sell at wholesale, beer and flavored malt beverages manufactured
11 within or without this state.

12 (b) A beer wholesaler permittee may possess, transport, sell, and
13 deliver beer to:

14 (1) another beer wholesaler authorized by the brewer to sell the
15 brand purchased;



(2) an employee; ~~or~~

(3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, or supplemental caterer's permit; ~~or~~

(4) a qualified organization conducting an allowable event to which IC 7.1-3-6.1 applies or a charity auction to which IC 7.1-3-6.2 applies;

located within this state. The sale ~~or donation~~, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) The beer wholesaler's bona fide regular employees may purchase beer from the wholesaler in:

(1) bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints; or

(2) one (1) keg;

at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:

(1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.

(2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, or supplemental caterer's permit.

(f) A beer wholesaler may:

(1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;

(2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and

(3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

SECTION 3. IC 7.1-3-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]:

Chapter 6.1. Charity Gaming Prizes

Sec. 1. As used in this chapter, "allowable event" has the meaning set forth in IC 4-32.2-2-2.

Sec. 2. As used in this chapter, "qualified organization" has the meaning set forth in IC 4-32.2-2-24.

Sec. 3. A qualified organization may give away an alcoholic beverage as a prize in an allowable event without obtaining a permit under this title.

Sec. 4. A qualified organization may give away as a prize for an allowable event an alcoholic beverage that is:

- (1) purchased by or donated to the qualified organization by a permittee or person described in section 5 of this chapter;
- (2) in sealed bottles or cases; and
- (3) provided for consumption off the premises only.

Sec. 5. A qualified organization may:

- (1) purchase or receive donations of alcoholic beverages in sealed bottles or cases from:
 - (A) a wholesaler permittee;
 - (B) a dealer permittee;
 - (C) a retailer permittee;
 - (D) a farm winery permittee;
 - (E) a brewer permittee for a brewery that manufactures not more than thirty thousand (30,000) barrels of beer in a calendar year for sale or distribution within Indiana; or
 - (F) an artisan distiller permittee; and
- (2) receive donations of alcoholic beverages in sealed bottles or cases from persons who are not permittees.

Sec. 6. (a) An individual must be present at the allowable event in order to win an alcoholic beverage prize. The prize winner must be given the alcoholic beverage prize in person by an individual designated by the qualified organization.

(b) The individual designated by the qualified organization to give away an alcoholic beverage prize must meet the following requirements:

- (1) The individual must be at least twenty-one (21) years of age.
- (2) The individual must successfully complete an alcohol server training program approved by the commission under IC 7.1-3-1.5. However, the individual may not be required to obtain an employee permit under IC 7.1-3-18-9 or a temporary bartender permit under IC 7.1-3-18-11 to award



a prize at an allowable event.

(c) When giving away an alcoholic beverage prize, the individual designated by the qualified organization shall comply with IC 7.1-5-10-15, IC 7.1-5-10-23, and any other provision of this title that applies to the furnishing of alcoholic beverages for consumption off the premises.

Sec. 7. An allowable event to which this chapter applies may be conducted on premises that are not licensed under this title for the sale of alcoholic beverages.

SECTION 4. IC 7.1-3-6.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 6.2. Charity Auctions

Sec. 1. As used in this chapter, "qualified organization" has the meaning set forth in IC 4-32.2-2-24.

Sec. 2. A qualified organization that conducts a charity auction may sell at auction an alcoholic beverage that is:

- (1) purchased from or received as a donation from a permittee or person described in section 4 of this chapter;
- (2) in sealed bottles or cases; and
- (3) for consumption off the premises only;

without obtaining a permit under this title.

Sec. 3. All sale proceeds of each auctioned alcoholic beverage must be used to support the institutional activities of the qualified organization.

Sec. 4. A qualified organization may:

- (1) purchase or receive donations of alcoholic beverages in sealed bottles or cases from:
 - (A) a wholesaler permittee;
 - (B) a dealer permittee;
 - (C) a retailer permittee;
 - (D) a farm winery permittee;
 - (E) a brewer permittee for a brewery that manufactures not more than thirty thousand (30,000) barrels of beer in a calendar year for sale or distribution within Indiana; or
 - (F) an artisan distiller permittee; and
- (2) receive donations of alcoholic beverages in sealed bottles or cases from persons who are not permittees.

Sec. 5. (a) An individual must be present in order to bid on and purchase an alcoholic beverage at auction. The successful bidder must be given the alcoholic beverage in person by an individual designated by the qualified organization.



(b) The individual designated by the qualified organization to give away an alcoholic beverage purchased at the auction must meet the following requirements:

(1) The individual must be at least twenty-one (21) years of age.

(2) The individual must successfully complete an alcohol server training program approved by the commission under IC 7.1-3-1.5. However, the individual may not be required to obtain an employee permit under IC 7.1-3-18-9 or a temporary bartender permit under IC 7.1-3-18-11 to award a prize at an allowable event.

(c) When giving away an alcoholic beverage purchased at the auction, the individual designated by the qualified organization shall comply with IC 7.1-5-10-15, IC 7.1-5-10-23, and any other provision of this title that applies to the furnishing of alcoholic beverages for consumption off the premises.

(d) A qualified organization may not conduct more than four (4) charity auctions in a calendar year.

Sec. 6. A charity auction to which this chapter applies may be conducted on premises that are not licensed under this title for the sale of alcoholic beverages.

SECTION 5. IC 7.1-3-8-3, AS AMENDED BY P.L.109-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

(b) A liquor wholesaler shall be entitled to purchase liquor within this state from a person who holds an artisan distiller's permit, a distiller's permit, a rectifier's permit, or a liquor wholesaler's permit. A liquor wholesaler also may purchase liquor outside this state from the primary source of supply and, from that source, may transport and import liquor into this state.

(c) A liquor wholesaler may sell, transport, and deliver liquor only to a person who, under this title holds a:

- (1) liquor retailer's permit;
- (2) supplemental caterer's permit;
- (3) liquor dealer's permit; or
- (4) liquor wholesaler's permit.

A liquor wholesaler may sell, donate, transport, and deliver liquor to a qualified organization conducting an allowable event to which IC 7.1-3-6.1 applies or to a qualified organization conducting a charity auction to which IC 7.1-3-6.2 applies. The sale, transportation, donation, and delivery of liquor shall be made only



from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, and only in permissible containers and is subject to the rules of the commission fixing the quantity which may be sold or delivered at any one (1) time.

(d) A liquor wholesaler's bona fide regular employees may purchase liquor from the wholesaler in an amount not to exceed eighteen (18) liters.

SECTION 6. IC 7.1-3-13-3, AS AMENDED BY P.L.165-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, or a liquor dealer's permit. A holder of a wine wholesaler's permit may sell wine to the wine wholesaler's bona fide regular employees. **A wine wholesaler may sell, donate, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a qualified organization that is conducting an allowable event to which IC 7.1-3-6.1 applies or a charity auction to which IC 7.1-3-6.2 applies.**

(b) As used in this section, "brandy" means:

- (1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or
- (2) a beverage product that:
 - (A) is prepared from a liquid described in subdivision (1);
 - (B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and
 - (C) meets the following requirements:
 - (i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).
 - (ii) The product's label makes no reference to any distilled



spirit other than brandy.

(iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.

(iv) The product contains dairy cream.

(v) The product's sugar, dextrose, or levulose content is at least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless the wine wholesaler also holds a beer wholesaler's permit under IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit under IC 7.1-3-8 may not:

(1) hold a beer wholesaler's permit under IC 7.1-3-3;

(2) possess, sell, or transport beer; or

(3) sell more than one million (1,000,000) gallons of flavored malt beverage during a calendar year.

SECTION 7. IC 7.1-5-7-11, AS AMENDED BY P.L.10-2010, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

(1) Civic center.

(2) Convention center.

(3) Sports arena.

(4) Bowling center.

(5) Bona fide club.

(6) Drug store.

(7) Grocery store.

(8) Boat.

(9) Dining car.

(10) Pullman car.

(11) Club car.

(12) Passenger airplane.

(13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.

(14) Satellite facility (as defined in IC 4-31-2-20.5).

(15) Catering hall under IC 7.1-3-20-24 that is not open to the public.

(16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.



(17) Entertainment complex.

(18) Indoor golf facility.

(19) A recreational facility such as a golf course, bowling center, or similar facility that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.

(20) A licensed premises owned or operated by a postsecondary educational institution described in IC 21-17-6-1.

(21) An automobile racetrack.

(22) An indoor theater under IC 7.1-3-20-26.

(23) The location of an allowable event to which IC 7.1-3-6.1 applies.

(24) The location of a charity auction to which IC 7.1-3-6.2 applies.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

(1) The minor is eighteen (18) years of age or older.

(2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.

(3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

SECTION 8. IC 7.1-5-8-4, AS AMENDED BY P.L.159-2014, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) It is a Class B misdemeanor for a person who owns or operates a private or public restaurant or place of public or private entertainment to knowingly or intentionally permit another person to come into the establishment with an alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into the establishment. However, the provisions of this section do not apply to the following:

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track that is used primarily in the sport of auto racing.

(3) An outdoor place of public entertainment that:

(A) has an area of at least four (4) acres and not more than six

(6) acres;



- (B) is located within one (1) mile of the White River;
- (C) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and
- (D) is used primarily in connection with live music concerts.

(b) An establishment operated in violation of this section is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

(c) This section does not apply to a person who owns or operates a private or public restaurant or place of public or private entertainment where a qualified organization is conducting:

(1) an allowable event to which IC 7.1-3-6.1 applies, and the alcoholic beverage brought into the establishment is:

(A) in sealed bottles or cases; and

(B) donated to or purchased by the qualified organization to be offered as a prize in the allowable event; or

(2) a charity auction to which IC 7.1-3-6.2 applies, and the alcoholic beverage brought into the establishment is:

(A) in sealed bottles or cases; and

(B) donated to or purchased by the qualified organization to be offered for sale in the charity auction.

SECTION 9. IC 7.1-5-8-6, AS AMENDED BY P.L.94-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) It is a Class C misdemeanor for a person to knowingly carry liquor into a restaurant or place of public entertainment for the purpose of consuming it, displaying it, or selling, furnishing, or giving it away to another person on the premises, or for the purpose of having it served to himself or another person, then and there. It is a Class C misdemeanor to knowingly consume liquor brought into a public establishment in violation of this section.

(b) This section does not apply to a person at an outdoor place of public entertainment that:

(1) has an area of at least four (4) acres and not more than six (6) acres;

(2) is located within one (1) mile of the White River;

(3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(4) is used primarily in connection with live music concerts.

(c) This section does not apply to a person who carries liquor into a restaurant or place of public entertainment where a qualified organization is conducting:



- 1 **(1) an allowable event to which IC 7.1-3-6.1 applies, and the**
- 2 **liquor brought into the establishment is:**
- 3 **(A) in sealed bottles or cases; and**
- 4 **(B) donated to or purchased by the qualified organization**
- 5 **to be offered as a prize in the allowable event; or**
- 6 **(2) a charity auction to which IC 7.1-3-6.2 applies, and the**
- 7 **liquor brought into the establishment is:**
- 8 **(A) in sealed bottles or cases; and**
- 9 **(B) donated to or purchased by the qualified organization**
- 10 **to be offered for sale in the charity auction.**

